

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
JULY 7, 1997 - 7:00 P.M.**

ROLLCALL Answering rollcall were Members Faust, Hovland, Kelly, Maetzold and Mayor Smith.

CONSENT AGENDA Motion made by Member Maetzold and seconded by Member Hovland to approve the Consent Agenda as presented.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

RESOLUTION OF CONDOLENCE ADOPTED FOR FORMER MAYOR C. WAYNE COURTNEY
Member Maetzold introduced the following resolution and moved its adoption:

RESOLUTION OF CONDOLENCE

WHEREAS, on the 30th day of June, 1997, death brought to a close the active and productive life of C. Wayne Courtney; and

WHEREAS, he served the City of Edina, Minnesota beginning in 1962 with the Village of Morningside Park Board and Village Council, in 1966 as an Edina City Council Member and finally as Mayor of the City of Edina from 1980 through 1988; and

WHEREAS, he helped govern Edina as it grew from a "village" to a first class metropolitan suburb of more than 46,000 residents who have recognized and appreciated the quality of life he strove to achieve for the City; and

WHEREAS, he was instrumental in: developing the cable system, redeveloping the 50th and France commercial area, re-establishment of volunteers on the Edina Fire Department, developing the existing park and recreation system, formation of the Edina Historical Society and development of the Heritage Preservation Board; and

WHEREAS, he was awarded the Civic Service Award from the Community of Morningside, the Certificate of Merit from the Association of Metropolitan Municipalities, and the C.C. Ludwig Award for outstanding service from the League of Minnesota Cities; and

WHEREAS, he was involved in a great variety of community and state issues of critical interest to the City of Edina.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the City of Edina, Minnesota, does hereby mourn the passing of

C. WAYNE COURTNEY

and extend condolences to his family.

BE IT FURTHER RESOLVED that this resolution be entered in the Minutes of the Edina City Council and that a copy be presented to his family.

ADOPTED this 7th day of July, 1997.

Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

UPDATE GIVEN ON I-494 CORRIDOR COMMISSION Ross Thorfinson, Eden Prairie City Council Member and Chair of the I-494 Corridor Commission and Lisa Raduenz, of LJR, Inc., liaison to the Commission, presented an update entitled, "A New Approach". Member cities in the Commission are: Bloomington, Eden Prairie, Edina, Maple Grove, Minnetonka, Plymouth and Richfield. The Mission Statement for the Commission is, "To promote the reconstruction of I-494 from the Minnesota River to I-94 in order to increase its people moving capacity and improve mobility for businesses and residents throughout the region." Mr. Thorfinson presented a graph depicting the projected changes in corridor attributes between corridor communities and the seven county metropolitan area and the average daily traffic volumes by segment from 1994 on various trunk highways impacting I-494.

Five Goals and Strategies were given as follows:

1. To position the I-494 Corridor in the top of metro area transportation priorities;
2. To secure adequate funding to achieve the mission;
3. To build lanes for buses, ride-sharing and general use;
4. To increase ride-sharing throughout the I-494 Corridor; and
5. To support and expand economic opportunity in the I-494 Corridor.

Mr. Thorfinson indicated the government officials who represent the Commission are:

Two U.S. Senators and two U.S. Representatives (40% of delegation)

Nine State Senators and thirteen State Representatives (11% of the legislature)

Four Metropolitan Council Members (24% of the Council)

Four Hennepin County Commissioners (57% of the Board)

Member Hovland made a motion supporting the I-494 Corridor Commission's plan entitled, "A New Approach", including the five goals and strategies presented. Member Maetzold seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

***MINUTES OF THE REGULAR MEETING OF JUNE 16, 1997, SPECIAL MEETINGS OF JUNE 16, 1997 AND JUNE 23, 1997, APPROVED** Motion made by Member Maetzold and seconded by Member Hovland approving the Minutes of the Regular Meeting of June 16, 1997, and Special Meetings of June 16, 1997 and June 23, 1997.

Motion carried on rollcall vote - five ayes.

ORDINANCE NO. 850-A11 ADOPTED - PID, PLANNED INDUSTRIAL DISTRICT TO R-1 SINGLE DWELLING DISTRICT (5229 EDEN AVENUE) Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Planner

Planner Larsen informed the Council there had been no changes in the proposed rezoning since the June 16, 1997 meeting when first reading was granted.

Public Comment

John Menke, 5301 Pinewood Trail, stated the neighborhood residents have no objection to the rezoning. He requested the neighborhood be informed of any pending developments as soon as possible to give residents time to understand and react to the potential impact on the neighborhood.

Member Kelly made a motion granting second reading to Ordinance No. 850-A11 as follows:

ORDINANCE NO. 850-A11

**AN ORDINANCE AMENDING THE ZONING ORDINANCE (NO. 850)
BY REZONING PROPERTY TO SINGLE DWELLING UNIT DISTRICT R-1
FROM PLANNED INDUSTRIAL DISTRICT**

THE CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA, ORDAINS:

Section 1. Subsection 850.06 of Section 850 of the Edina City Code is amended by adding the following thereto:

"The extent of the Single Family Dwelling Unit District, is enlarged by the addition of the following property:

Parcel 1: That portion of Lot One, Block One, WANNER ADDITION, also know as 5229 Eden Circle.

The extent of the Planned Industrial District PID is reduced by removing the property described above as Parcel 1 the PID District."

Section 2. This ordinance shall be in full force and effect upon its passage and publication.

Attest: _____
City Clerk

Mayor

Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

***FINAL DEVELOPMENT PLAN CONTINUED TO JULY 21, 1997, 3917-3929 WEST 50TH STREET (EDINA PROPERTIES)** Motion of Member Maetzold seconded by Member Hovland to continue Final Development Plan for 3917-3929 West 50th Street, Edina Properties, to the July 21, 1997 City Council meeting.

Motion carried on rollcall vote - five ayes.

VARIANCE APPEAL DENIAL APPROVED FOR 5908 VERNON AVENUE (DAVID THOMAS)

Assistant Planner Aaker explained the subject property subdivided in 1971 requiring both a lot depth and frontyard setback variance for development. Variances for the property were reviewed in 1980, 1987, and 1994. In 1980 variances were approved by the Zoning Board of Appeals and were upheld by the Council with Findings. No home was built and the variances lapsed. In 1987 identical variances were reviewed and denied by the Zoning Board of Appeals based on house design. The 1987 denial was never appealed to the Council. On July 7, 1994, the Zoning Board of Appeals heard and denied identical variances based on house design. The City Council upheld the Zoning Board's denial August 1, 1994, after the property owners appealed. The Zoning Board of Appeals heard and denied the property owners request for identical variances June 19, 1997. Dave Thomas, the property owner is now appealing the variance denial.

Assistant Planner Aaker noted the frontyard setback variance has been reduced from 28 feet to 4 feet 4 inches. The reduction in the variance does not reflect a design change. The change reflects the Zoning Board's interpretation (under the City Attorney's direction) of "Established Avenue Frontyard Setback". An appeal to the Zoning Board, unrelated to this requested established that a frontyard setback requirement of 30 feet must be maintained if less than 25 percent of lineal frontage on the street between intersections is occupied by buildings having front setbacks of more or less than 30 feet. Only one home fronts Vernon Avenue between intersections and it has less than 25 percent of the total lineal frontage along the block. Instead of requiring that the proposed house match the 58 foot setback of the neighbor, the Zoning Board determined (by clarification of the Ordinance from the City Attorney) that the lot has a frontyard setback requirement of 30 feet.

Member Kelly asked Attorney Gilligan to explain his rationale for assuming a lot depth variance is not required for the subject property as stated in his written opinion.

Attorney Gilligan explained the subject lot is a platted lot created in 1971 when the City Council approved a two-lot subdivision. Based upon Attorney Gilligan's review of the City's subdivision ordinance in effect in 1971, it is his opinion that the approval of the subdivision included an approval of a variance with respect to the 120-foot lot depth requirement. In approving the subdivision the City Council created a buildable lot where a single family dwelling unit could be built subject to compliance with the conditions of the subdivision approval and other requirements of the City's zoning ordinance. The City's process was to consider items such as lot depth, lot width and lot size at the time of subdivision approval, therefore, the subject lot does not need a lot depth variance since it was granted when the subdivision was granted.

Attorney Gilligan continued stating the owners of a lot adjacent to the subject property have asserted that the City may not grant a variance because Mr. Thomas knew of the zoning restrictions when he purchased the property, and therefore, the hardship is self-created. The Minnesota Court of Appeals in a decision released earlier this year (Myron v. City of Plymouth, 562 N.W. 2nd 21) held that actual or constructive knowledge of a zoning ordinance before a purchase of land does not mean that hardships resulting from a zoning restructuring were self-created within the meaning of the "undue hardship" requirement. This decision overruled previous decisions of the Court of Appeals which held that a self-created hardship exists when a person purchases land with knowledge actual or instructive of zoning restrictions in effect at the time of purchase. Therefore, in the case of the appeal presently under consideration, the fact that Mr. Thomas may have been aware of the zoning restrictions limiting development of the Vernon Avenue lot at the time of his purchase of the lot does not bar the City from granting a frontyard setback variance.

Attorney Gilligan concluded that since no lot depth variance is required to construct a house on the lot, it is possible to construct the proposed house on the lot in a location that does not require a variance. However, by granting a frontyard setback variance the house can be located further away from the property located to the north of the lot at 5540 Dundee Road and lessen the impact of the house on that property.

Member Faust asked about the backyard setback and the location of the deck. Assistant Planner Aaker explained that a deck may come within five feet of the property line in the rearyard.

Member Hovland asked about the potential drainage issue relative to the house on Dundee. Assistant Planner Aaker responded that reviewing drainage is part of the building permit process. Engineer Hoffman added a permit is not issued that would put more run off onto an adjacent property. He continued that the proponent would need a survey, from a registered land surveyor showing the existing drainage before any excavation or building, and a plan showing the proposed method to handle drainage after the house is built. No permit is issued where it would negatively impact drainage of adjacent property.

Member Faust questioned whether this house could be built without any variances. Assistant Planner Aaker replied that yes the proponent has positioned the house parallel to Vernon Avenue and in so doing requires the frontyard setback variance for the portico. However, the proponent could position the house parallel to Dundee Road and build the house as designed without needing any variance.

Member Maetzold asked about the bay windows on the proposed house because it appears they extend into the setback as well as the portico. Assistant Planner Aaker explained bay windows are allowed to extend into the setback, however, porticos must meet setback or get a variance.

Proponent Presentation

Dennis Trooien, attorney for proponent Dave Thomas, noted that both Mr. Thomas and his son were in attendance and would answer any questions. Mr. Trooien pointed out that Mr. Thomas could reposition the proposed house and build it without any variances needed. However, Mr. Thomas, in an effort to work with the neighbors and the City has rotated the house to parallel Vernon Avenue, he has eliminated one deck from the rear of the house and reduced the size of the remaining deck, and he has pushed the house down six feet. Mr. Trooien urged Council grant the four foot four inch front yard setback variance for Dave Thomas.

Public Comment

Sylvia Logerquist, 5540 Dundee Road, expressed concern. Ms. Logerquist stated she recognized the right of the property owner to develop their land in the manner they choose, however, the proposed home's huge elevations raises the following concerns:

1. Drainage - Dundee Road area is a flood zone already and there is concern with the outcome of disturbing an area that previously absorbed run off.
2. The variance requested is excessive for the lot size.

3. The proposed home is too massive for the lot.
4. The proposed home's architecture is incompatible for the neighborhood.
5. Steep slope of lot downward to Dundee Road, approximately 14 feet

Ms. Logerquist submitted a statement signed by three area neighbors who share her concerns and oppose granting the requested variance.

Council Discussion/Action

Council briefly discussed the various concerns relative to the requested variance. Questions were raised regarding City Code, architecture, and massing. Attorney Gilligan noted the City Code does not govern either architecture or the mass of a structure. The Code does govern lot coverage or the largest foot print a structure may cover. Mayor Smith noted after the discussion the question before the Council was whether to grant the four foot four inch variance or to uphold the denial. He added the proponent could, if the Council denied the variance build the same house repositioned the house on the lot parallel to Dundee Road.

Member Hovland introduced the following resolution and moved its adoption

**RESOLUTION
GRANTING A VARIANCE FROM
THE FRONT YARD SETBACK**

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Edina, Minnesota hereby grants a four foot four inch front yard setback variance to Dave Thomas for the property located at 5908 Vernon Avenue subject to three conditions:

1. Proponent obtains the necessary curb cut permit from Hennepin County;
2. Drainage plans receive satisfactory review of City staff; and
3. Proponent secures any necessary Watershed District permits.

Adopted this 7th day of July, 1997. Member Maetzold seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted.

FINAL PLAT APPROVED - DOEPKES ADDITION (5920 WEST 70TH STREET) Planner Larsen noted the subject property is a developed single dwelling lot with an existing home located on the southwesterly portion of the lot. The proposed subdivision would create two lots identical in size and shape. The existing house would encroach on the new lot and would need to be moved, remodeled, or razed. He concluded stating the final plat is identical to the preliminary plat approved May 19, 1997.

Member Faust introduced the following resolution and moved its adoption:

**RESOLUTION
GRANTING FINAL PLAT
APPROVAL TO DOEPKES DIVISION**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, that that certain plat entitled, "DOEPKES DIVISION", platted by Lori Baron, and presented at the regular meeting of the City Council on July 7, 1997, be and is hereby granted final plat approval with two conditions:

1. Subdivision Dedication of \$14,000 based upon unimproved land Value of \$175,000;
2. Payment of Utility Connection Charges.

Passed this 7th day of July, 1997. Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Resolution adopted.

HEARING DATE SET OF AUGUST 4, 1997, FOR AMENDMENT TO SECTION 815 (ANTENNAS AND TOWERS) Planner Larsen noted the Council met June 23, 1997, with the radio frequency consultant. Staff recommends the Council set the public hearing to consider the proposed amendments to Section 815 of the Code Antennas and Towers. **Member Maetzold moved to set**

the public hearing date of August 4, 1997, to consider the proposed amendments to Section 815 Antennas and Towers. Mayor Smith seconded the motion.

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

***LOT DIVISION GRANTED FOR 6312 HILLSIDE ROAD (PATRICK AND CONNIE FLANERY)**

Member Maetzold introduced the following resolution, seconded by Member Hovland and moved its adoption:

RESOLUTION

WHEREAS, the following described tracts of land constitute two developed parcels with frontage on Hillside Road:.

Lots 8 and 9, Block 1, VALLEY VIEW HEIGHTS, according to the recorded plat thereof and situated in Hennepin County, Minnesota, and

WHEREAS, the owners of the above described tracts of land desire to subdivide said tracts into the following described new and separate parcels:

PARCEL ONE: That part of Lot 9, Block 1, VALLEY VIEW HEIGHTS, according to the recorded plat thereof and situated in Hennepin County, Minnesota, lying west of a line described as beginning on the north line of said Lot 9, distant 33.00 feet west of the northwest corner; thence southerly to a point on the south line of said Lot 9, distant 26.00 feet west of the southeast corner and there terminating.

PARCEL TWO: Lot 8 and that part of Lot 9, Block 1, VALLEY VIEW HEIGHTS, according to the recorded plat thereof and situated in Hennepin County, Minnesota, lying east of a line described as beginning on the north line of said Lot 9, distant 33.00 feet west of the northeast corner; thence to a point on the southerly line of said lot 9, distant 26.00 feet west of the southeast corner and there terminating.

WHEREAS, it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina and said Parcels as separate tracts of land do not interfere with the purposes of the Subdivision and Zoning Regulations as contained in the City of Edina Code Sections 810 and 850.

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of said Parcels as separate tracts of land is hereby approved and the requirements and provisions of Code Section 810 and Code Section 850 are hereby waived to allow said division and conveyance thereof as separate tracts of land but are not waived for any other purpose or as to any other provision thereof, and subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent ordinances of the City of Edina or with the prior approval of this Council as may be provided for by those ordinances.

Passed and adopted this 7th day of July, 1997.

Motion carried on rollcall vote - five ayes.

FIRST READING GRANTED FOR ORDINANCE NO. 1997-8. A MORATORIUM ON INSTALLATION OF FIBEROPTIC CABLE IN CITY RIGHTS-OF-WAY

Assistant Manger Hughes reminded Council on June 16, 1997, they had considered a proposed agreement with KMC Telecom Inc., with respect to the installation of fiberoptic cables in portions of the City. Staff recommended approval of the proposed agreement. After discussion, the City Council directed staff to prepare an ordinance creating a moratorium on fiberoptic installations until the City had a chance to prepare and adopt a new right-of-way ordinance consistent with the newly enacted state law.

Staff continues to believe the proposed agreement with KMC Telecom provides adequate protection to the City pending adoption of a new right-of-way ordinance. The proposed agreement provides that KMC Telecom will agree to comply with any new requirements imposed by the City due to a future ordinance. The Council could grant an exception to the moratorium ordinance for KMC Telecom as well as other providers that enter into agreements with the City, similar to that proposed by KMC Telecom. Staff believes such an exception would allow the provider to commence installation of their

system this summer with little risk to the City. Previous installations of the system have been approved by the cities of Bloomington, Eden Prairie, Chaska and Chanhassen.

Assistant Manager Hughes said representatives of KMC were present and would briefly describe fiberoptic technology and their proposal for Edina.

Tricia Breckenridge, Vice President of Business Development for KMC Telecom, stated KMC proposes to lay 20-25 miles of multiple loop cable through the business community of Edina. Their installers follow standards set by an impartial group, Belcor/AT&T, the same standards followed by all fiberoptic providers. She reiterated KMC fully plans to follow all ordinance guidelines and would provide the City of Edina with detailed mapped plans of their installations, payment of fees and "as-built" drawings when installation is completed. KMC also agrees to comply with Edina's ordinance when it is enacted.

Roy Choates, Director of Construction for KMC Telecom, gave a brief overview of KMC's installation procedures. He reiterated the Edina Engineering Department would be furnished mapping plans that must receive approval before KMC began installation.

Following a brief Council discussion Mayor Smith directed staff to present a draft right-of-way management ordinance to the Council at their July 21, 1997, regular Council meeting.

Member Maetzold introduced the following ordinance and moved waiver of second reading and adoption:

**ORDINANCE NO. 1997-8
AN ORDINANCE PLACING A MORATORIUM ON
ISSUANCE OF PERMITS FOR INSTALLATION OF
CERTAIN TELECOMMUNICATION FACILITIES
IN PUBLIC RIGHTS-OF-WAY**

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS

Section 1. Purpose. The Minnesota Legislature at its 1997 Regular Session enacted Minnesota Laws 1997, Chapter 123, which relates to the regulation by local governments of the location of facilities for transporting telecommunications or other voice or data information in the public rights-of-way. The City is conducting studies for the purpose of considering amendment of official controls, as defined in Minnesota Statutes, Section 462.352, Subd. 15, with respect to the regulation of the location of telecommunication facilities in public rights-of-way pursuant to the authority contained in Minnesota Laws 1997, Chapter 123. However, while the amendments to official controls are being considered, applications for permits under Section 420 for location of new telecommunications facilities in the public rights-of-way of the City, continue to be made. Therefore, in order to protect the planning process and the health, safety and welfare of the citizens of Edina, it is necessary and desirable to impose the following moratorium pursuant to the authority granted by Minnesota Statutes, Section 462.355, Subd. 4.

Section 2. Moratorium. From the effective date of this ordinance to and including 120 days following such effective date, subject to earlier termination or extension by the Edina City Council, the City Council, the Building Official, and the Edina City staff shall not grant any permits for the installation of telecommunication facilities for any new fiber optic network system in public rights-of-way of the City.

Section 3. Effective Date. This ordinance shall be in full force and effect on, and the effective date of this ordinance shall be, July 7, 1997. Member Faust seconded the motion.

Attest: _____
City Clerk

Mayor

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith
Ordinance adopted.

ORDINANCE NO. 1997-6 ADOPTED - AN ORDINANCE AMENDING CODE SECTION 155 - DISPOSAL OF UNCLAIMED PROPERTY Police Chief Bernhjelm reminded Council Ordinance No. 1997-6, an Ordinance Amending Code Section 155, Disposal of Unclaimed Property received First Reading at the June 2, 1997. He presented the Council with a proposed contract with the City Store, Inc. The City Store, a non-profit corporation is a cooperative venture between the City of Minneapolis and the people of the Phillips neighborhood. The City Store qualifies under the requirements of the State Statute and the proposed ordinance to dispose of property for the City.

Member Kelly moved second reading and adoption of Ordinance No. 1997-6 as follows:

ORDINANCE NO. 1997-6

AN ORDINANCE AMENDING SECTION 155

OF THE CITY CODE TO PROVIDE ALTERNATE

MEANS OF DISPOSING OF UNCLAIMED PROPERTY

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS

Section 1. Subsection 155.02 of the City Code is amended to read as follows:

“155.02 Disposal of Unclaimed Property. Any such property which has been in the custody of the Police Chief for a period of 60 days may be sold in accordance with either of the methods provided in Subd. 1 and Subd. 2 of this Subsection. All proceeds of the sale, less costs attributable to the sale, shall be delivered to the Treasurer and deposited in a fund entitled “General Fund-Sale of Property”. If the owner of any such property sold in accordance with this Section shall furnish evidence of ownership satisfactory to the Police Chief within six months after the date of sale, the Treasurer shall deliver to said owner the proceeds of the sale of the property less any costs attributable to the sale.

Subd. 1 Public Sale. Unclaimed property may be sold to the highest bidder at a public sale following not less than ten days prior notice published in the official newspaper of the City.

Subd. 2 Private Sale. The City, at any time and from time to time, may enter into contracts with nonprofit organizations that have a significant mission of community service, for the purpose of disposing of unclaimed property through the sale of such property by such nonprofit organizations. If the City so contracts, unclaimed property shall be disposed of in accordance with the terms and conditions set out in such contracts.

Section 2. Subsection 155.03 of the City Code is amended to read as follows:

155.03 Record. A record shall be kept listing each item of property, the date and circumstances under which possession by the City was acquired, the date of publication of notice of public sale if sold pursuant to Subd 1 of Subsection 155.02, the date the property was transferred to a non-profit organization if sold pursuant to Subd. 2 of Subsection 155.02, the date of sale, and the proceeds of the sale less any costs attributable to the sale.”

Section 3. Effective Date. Following publication the effective date of this ordinance shall be, July 16, 1997.

Attest: _____
City Clerk

Mayor

Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Ordinance Adopted.

***AWARD OF BID FOR PARK FENCING AT COURTNEY FIELDS AND PAMELA PARK CONTINUED TO JULY 21, 1997** Motion of Member Maetzold seconded by Member Hovland to continue the bid award for park fencing at Courtney Fields and Pamela Park to July 21, 1997.

Motion carried on rollcall vote - five ayes.

***BID AWARDED FOR WEBER PARK BASKETBALL COURTS RECONSTRUCTION CONTRACT 97-2PK** Motion made by Member Maetzold and seconded by Member Hovland for award of bid for Weber Park basketball courts reconstruction contract 97-2PK to recommended low bidder, Alber Asphalt Co., at \$19,450.00.

Motion carried on rollcall vote - five ayes.

***BID AWARDED FOR FOUR SNOW BLOWERS FOR SIDEWALK PLOWS** Motion made by Member Maetzold and seconded by Member Hovland for award of bid for four snow blowers for sidewalk plows to recommended low bidder, Scharber and Sons under State Contract No. 30812282 at \$20,034.78.

Motion carried on rollcall vote - five ayes.

***RESOLUTION APPROVED AUTHORIZING AGREEMENT BETWEEN THE CITY OF RICHFIELD AND THE CITY OF EDINA RELATING TO THE IMPROVEMENT OF WEST 76TH STREET WEST OF I-35W** Motion made by Member Maetzold and seconded by Member Hovland authorizing approval of the resolution as follows:

RESOLUTION

**AUTHORIZING APPROVAL OF AGREEMENT BETWEEN
THE CITY OF RICHFIELD AND THE CITY OF EDINA RELATING TO THE
IMPROVEMENT OF WEST 76TH STREET WEST OF I-35W**

WHEREAS, the City of Edina and the City of Richfield desire to execute a Joint Powers Agreement for an Improvement Project for West 76th Street west of I-35W; and

WHEREAS, the City of Richfield has proposed resurfacing West 76th Street and related improvement between I-35W and Xerxes Avenue, extending a short distance into the City of Edina; and

WHEREAS, both the Cities of Edina and Richfield desire to make the proposed road resurfacing improvement using Municipal State Aid Funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina:

1. Richfield will be responsible for awarding the construction contract and supervision of construction of the improvements on West 76th Street under Municipal State Aid Project Nos. 120-136-12 (Edina) and 157-361-19 (Richfield).
2. Edina and Richfield will share the cost of the Project per the Preliminary Schedule 1 (Engineer's Estimate). This schedule will be revised based upon actual construction costs at the Project completion.
3. The Mayor and City Manager are authorized to execute the Joint Powers Agreement with the City of Richfield for the Improvement Project for West 76th Street west of I-35 W.

Adopted this 7th day of July, 1997.

Motion carried on rollcall vote - five ayes.

CHICO'S TACOS LICENSES REVOKED Manager Rosland noted the Minnesota Department of Revenue has sent the City a "Notice of Revocation of License". After receiving this notification under MS270.72 the City must take action revoking all licenses held by Chico's Tacos. The management of Chico's Tacos have been notified and are currently taking action. **Member Maetzold made a motion revoking food and 3.2 beer license #50046 and wine license #020-97 for Chico's Tacos, 7078 Amundson Avenue until the necessary tax clearance has been obtained from the Minnesota Department of Revenue.** Member Kelly seconded the motion.

Ayes:

Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

***PETITION RECEIVED FOR BACKYARD REGRADE FOR PROPERTY AT 5042 GREEN FARMS ROAD** Motion made by Member Maetzold and seconded by Member Hovland acknowledging receipt of a petition for regrading the backyard at 5042 Green Farms Road and to refer it to Engineering for processing as to feasibility.

Motion carried on rollcall vote - five ayes.

CLAIMS PAID Member Kelly made a motion to approve payment of the following claims as shown in detail on the Check Register dated July 1, 1997, and consisting of 53 pages: General Fund \$339,887.31; Communications \$16,386.40; Working Capital \$23,971.61; Art Center \$21,940.86; Swimming Pool Fund \$35,732.88; Golf Course Fund \$50,987.43; Ice Arena Fund \$17,306.18; Gun Range Fund \$499.26; Edinborough/Centennial Lakes \$48,286.53; Utility Fund \$398,505.34; Storm Sewer Utility Fund \$6,493.41; Liquor Dispensary Fund \$308,650.39; Construction Fund \$22,754.24; Park Bond Fund \$517,321.82; I-494 \$425.00; TOTAL \$1,809,148.66. Member Maetzold seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

There being no further business on the Council Agenda, Mayor Smith declared the meeting adjourned at 10:10 P.M.

City Clerk